

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
Plaintiff, ) 8:09CR272  
v. )  
MICHAEL D. MCCROY, ) MEMORANDUM AND ORDER  
Defendant. )  
\_\_\_\_\_ )

This matter is before the court on defendant Michael D. McCroy's objection, Filing No. [113](#), to the magistrate judge's findings and recommendation, Filing No. [105](#). The government charged McCroy with conspiracy to commit bank robbery in Count I, bank robbery in Count II, and brandishing a firearm during a bank robbery in Count III. Defendant filed a motion requesting that he be allowed to file pretrial motions out of time and to dismiss the indictment or, in the alternative, for election of remedies. Filing No. [102](#) and Filing No. [103](#). The magistrate judge reviewed the motion and determined that it should be denied. McCroy objects to these findings of the magistrate judge. The magistrate judge's finding may be reversed if clearly erroneous or contrary to law. See [28 U.S.C. § 636](#). The court has reviewed the record and relevant law. The court finds no showing of good cause for the delay. See Fed. R. Crim. P. 12(e). The court concludes that the findings and recommendations of the magistrate judge should be adopted in their entirety.

THEREFORE, IT IS ORDERED that:

1. Defendant's motion to file pretrial motions out of time, Filing No. 102, is denied.

2. Defendant's motion to dismiss indictment or in the alternative elect remedies,

Filing No. 103, is denied.

3. Defendant's objections, Filing No. 113, are overruled.

4. The order of the magistrate judge, Filing No. 105, is adopted in its entirety.

DATED this 26<sup>th</sup> day of February, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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